

**BEFORE THE TENNESSEE REGULATORY AUTHORITY AT**

**NASHVILLE, TENNESSEE**

September 28, 2001

**IN RE:**

**BELLSOUTH TELECOMMUNICATIONS, INC.  
TARIFF TO INCREASE THE RATE FOR  
NATIONAL DIRECTORY ASSISTANCE SERVICE**

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**DOCKET NO.  
00-00770**

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**ORDER DENYING TARIFF**

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This matter came before the Tennessee Regulatory Authority ("the Authority") at the regularly scheduled Authority Conference held on December 19, 2000, for consideration of BellSouth Telecommunications, Inc. ("BellSouth") Tariff to increase rates for Directory Assistance ("DA") services. Upon reviewing the Tariff and finding that the Tariff is not consistent with BellSouth's existing DA tariff and previous Authority decisions and that the proposed Tariff is not in the public interest, the Directors voted unanimously to deny the Tariff.

**I. The Tariff**

Under its existing DA tariff, BellSouth currently provides customers with six (6) free calls per month to obtain DA listings for telephone numbers in Tennessee, after which BellSouth assesses a \$0.29 rate per DA request. DA information is currently obtained through the abbreviated dialing codes of 411 and 1-411. Under the proposed Tariff, BellSouth will eliminate the six (6) call allowance for requested telephone numbers that are outside both the customer's area code and local calling area, hereinafter referred to as "Non-Local, Intrastate DA." BellSouth will also increase the rate for "Non-Local, Intrastate DA" requests from \$0.29 to \$0.95 per request. The \$0.29 rate and six (6) call allowance will remain in effect for DA requests for

numbers inside either the customer's area code or local calling area, hereinafter referred to as "Local DA." Lastly, BellSouth will increase the rate associated with requests for out-of-state telephone numbers, hereinafter referred to as "Interstate DA," from \$0.85 to \$0.95 per request. Under BellSouth's proposed Tariff, non-local, intrastate DA, at a price of \$0.95 and without a six (6) call allowance, would be available over the same 1-411 and 411 numbers used for local DA, to which the six (6) call allowance and \$0.29 price apply.

## **II. Procedural History**

The Tariff was originally filed with the Authority on September 1, 2000 with an effective date of October 1, 2000. The Authority first considered the Tariff at a regularly scheduled Authority Conference on September 26, 2000. At that Conference, the Directors voted unanimously to suspend the Tariff for sixty (60) days, until November 29, 2000, to allow for further investigation and review.

The Authority next considered the Tariff at a regularly scheduled Authority Conference held on November 7, 2000. During that Conference, BellSouth responded to questions from the Directors regarding consumer confusion. In the end, the Directors voted unanimously to defer the docket until the November 21, 2000 Authority Conference.

During the November 21, 2000 Authority Conference, the Directors once again addressed the issue of consumer confusion and suggested that BellSouth work with the Authority Staff to resolve the consumer confusion issues. To this end, the Directors voted unanimously to re-suspend the Tariff for an additional thirty (30) days, until December 29, 2000.

On December 15, 2000, BellSouth filed with the Authority a dialing pattern history for DA in Tennessee stating that it was providing the matrix in response to the Authority's concerns over consumer confusion.

### III. Findings and Conclusions

In 1997, in TRA Docket No. 96-01423, the Directors by a majority vote approved the tariff and held that DA is a non-basic service and required United Telephone-Southeast, Inc. (“UTSE”) to amend its tariff to provide for six (6) free DA inquiries, rather than the three (3) proposed in the tariff as filed.<sup>1</sup> In 1999, BellSouth filed a tariff (TRA Docket No. 99-00391) seeking to institute a charge for BellSouth’s Statewide DA offering. The tariff, as considered by the Directors, contained an allowance of six (6) free DA inquiries. The Directors, by a majority vote, approved BellSouth’s tariff based on the finding that the tariff complied with applicable statutory requirements and previous Authority decisions.<sup>2</sup> In approving this tariff, the Authority also denied the Consumer Advocate’s request for a contested case proceeding. In denying the request, the Authority found that the BellSouth tariff was identical to the UTSE tariff and that the Consumer Advocate was raising the same arguments that the Authority had ruled upon in the UTSE case.<sup>3</sup>

Based upon a review of BellSouth’s proposed Tariff and orders issued by the Authority in the UTSE and BellSouth DA cases, the Authority makes the following findings of fact and conclusions of law:

1) Through this proposed Tariff, BellSouth is attempting to limit the application of the six (6) call allowance as it applies today. The Authority ruled in TRA Docket No. 99-00391 that BellSouth could institute a \$0.29 charge for intrastate DA because the tariff in that docket

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<sup>1</sup> See *United Telephone-Southeast, Inc. Tariff No. 96-201 to Reflect Annual Price Cap Adjustment*, Docket No. 96-01423, *Order Approving in Part and Denying in Part Tariff No. 96-201* (Sept. 4, 1997), *appeal pending*, Appeal No. M1997-00238-COA-R12-CV. Director Kyle concluded that director assistance is a basic services and as a result, voted not to approve United’s tariff.

<sup>2</sup> *BellSouth Telecommunications, Inc. Tariff to Implement a \$0.29 Directory Assistance Charge*, Docket No. 99-00391, *Order Approving Tariff and Denying Consumer Advocate’s Petition* (July 29, 1999), *aff’d*, 2001WL575570 (May 30, 2001). Consistent with her previously stated views on charges for directory assistance, Director Kyle did not vote with the majority in the approval of BellSouth’s tariff or the denial of the Consumer Advocate’s Petition.

<sup>3</sup> See *id.* at pp. 3-5.

was filed consistent with the conditions ordered for UTSE in TRA Docket No. 96-01423, including the same six-call allowance. BellSouth's proposed Tariff seeks to remove the call allowance for certain intraLATA DA requests and all interLATA DA requests. The Authority finds that BellSouth's proposed Tariff is inconsistent with previous Authority orders providing for DA and the public policy of the Authority as set forth in those orders.<sup>4</sup>

2) The Authority finds that the proposed Tariff has the potential to create consumer confusion and is likely to induce consumers to pay a higher price for DA than expected. Before a consumer can determine the price of a DA request under BellSouth's proposed Tariff, the consumer must determine whether the request is a "Local DA" or "Non-Local, Intrastate DA" request. Thus, the consumer must know whether the requested listing is inside or outside the area code and/or the local calling area of the consumer. Because many consumers do not know where the area code and local calling area boundaries lie, they will not know the price of a DA request until it is billed. In addition, under BellSouth's proposed Tariff, "Local DA" and "Non-Local, Intrastate DA" will be available over the same 1-411 and 411 numbers currently used to obtain any Tennessee listing at \$0.29 with a six (6) call allowance. This dialing arrangement increases the potential for consumer confusion and mistake and may result in the consumer paying a higher price for Local DA than is necessary.<sup>5</sup> Therefore, approval of this Tariff is not in the public interest.

Based on the foregoing findings and conclusions, the Directors voted unanimously to

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<sup>4</sup> See *United Telephone-Southeast, Inc. Tariff No. 96-201 to Reflect Annual Price Cap Adjustment*, Docket No. 96-01423, *Order Approving in Part and Denying in Part Tariff No. 96-201* (Sept. 4, 1997), *appeal pending*, Appeal No. M1997-00238-COA-R12-CV; *BellSouth Telecommunications, Inc. Tariff to Implement a \$0.29 Directory Assistance Charge*, Docket No. 99-00391, *Order Approving Tariff and Denying Consumer Advocate's Petition* (July 29, 1999), *aff'd*, 2001WL575570 (May 30, 2001).

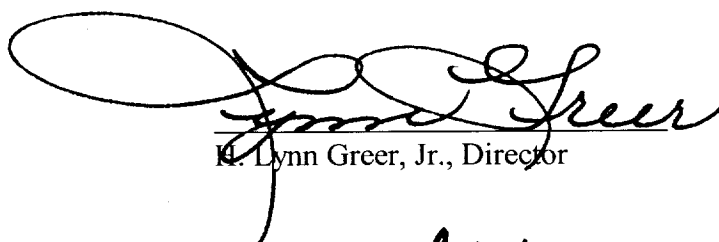
<sup>5</sup> Consumers may call these numbers expecting the call-allowance and/or the \$0.29 price to apply, when, in fact, there is no allowance and the price is \$0.95 (if the tariff is approved). Consumers may not realize this until they receive their bills.

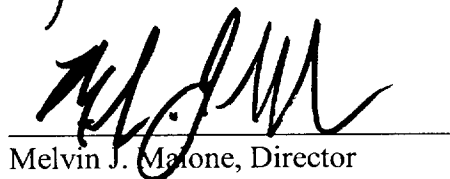
deny the Tariff at the December 19, 2000 Authority Conference. Further, the Directors noted that their review of BellSouth's proposed Tariff raised similar concerns regarding a United Telephone-Southeast, Inc. DA tariff, which went into effect on February 14, 1999. Given these concerns, the Directors determined to undertake a preliminary inquiry to determine whether United Telephone-Southeast's tariff, Docket No. 99-00022, creates the same potential for consumer confusion.

**IT IS THEREFORE ORDERED THAT:**

BellSouth Telecommunications, Inc. Tariff No. 00-00770 to increase the rates for Directory Assistance service is denied.

  
Sara Kyle, Chairman

  
K. Lynn Greer, Jr., Director

  
Melvin J. Malone, Director

ATTEST:

  
K. David Waddell, Executive Secretary